

CalRecycle

Proposed Waste Tire Storage, Permit and
Penalty Criteria Regulations

1:00 P.M., October 16, 2013

Byron Sher Auditorium
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Sacramento, California 95814

Reported by:
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APPEARANCES

Geralda Stryker

Public Comment

Bryce Perkins

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1 P R O C E E D I N G S

2 OCTOBER 16, 2013

1:15 p.m.

3 **Public Hearing on the Proposed Revised Waste Tire**
4 **Storage, Permit and Penalty Criteria Regulations**

5 MS. STRYKER: Okay, good afternoon. For
6 simplicity during the hearing, we will be
7 referring to the proposed Waste Tire Storage
8 Permit and Penalty Criteria Rulemaking as simply
9 "Proposed Waste Tire Regulations Revisions."
10 However, in appropriate places for legal purposes
11 I will be using the full title of this
12 rulemaking.

13 This begins the public hearing on the
14 first 45-day comment period on the Proposed Waste
15 Tire Storage, Permit and Penalty Criteria
16 Regulation.

17 The Agenda is listed in the Powerpoint.
18 During this rulemaking overview, I will touch on
19 key areas of the Proposed Waste Tire Regulations
20 Revisions. The Public Comments portion of
21 today's agenda will be the opportunity for us to
22 listen to you and your comments related to the
23 proposed Waste Tire Regulations Revisions.

24 Upon adjournment of this hearing, the
25 first 45-day review period will be complete.

1 So the purpose of today's hearing is the
2 opportunity for interested parties to provide
3 oral comments on the Proposed Waste Tire
4 Regulations Revisions, just as we have received
5 written comments prior to today. There will be
6 questioning and answering at this public hearing;
7 written comments already submitted are part of
8 this rulemaking record, so it's not necessary to
9 repeat those comments.

10 The written comment period has already
11 ended as of yesterday. The period for oral
12 comment will end when this public hearing ends
13 and the Court Reporter stops recording. Anyone
14 wishing to comment today, please fill out a
15 speaker slip, which is available in the back of
16 the room and hand your speaker slip to the person
17 that will be -- and there are not too many of you
18 -- hand your speaker slip in to me at this point
19 when I ask for them a little later.

20 Everyone that is here, please make sure
21 you sign in at the back of the room to provide
22 contact information that we will be using to make
23 sure that you get copies of future Regulations
24 Revisions, and at the end of the hearing
25 CalRecycle will discuss the next steps regarding

1 the Proposed Waste Tire Regulations Revisions and
2 the public hearing will be closed.

3 It is important that we get your comments
4 on these Proposed Regulations today. All
5 comments received, both written and oral, will be
6 given equal consideration.

7 The informal rulemaking process actually
8 started a couple of years ago where we had two
9 rulemaking packages, one was the Waste Tire
10 Facility Enforcement which we started in April
11 2010, and the other was the Waste Tire Storage
12 Disposal and Permitting which we started in July
13 of 2010.

14 In June 2011, we decided to combine those
15 two into one rulemaking package and all comments
16 during the two informal rulemaking processes were
17 considered and incorporated as appropriate into
18 the currently proposed text.

19 The formal rulemaking started on August
20 23, 2013 with the publication of the documents
21 you see here on the slide. All of these
22 documents are available on our website and our
23 website and other important information has been
24 included in the Notice of Proposed Rulemaking and
25 the attached cover letter, which is also

1 available in the back of the room if you need a
2 copy.

3 During this year-long process, there will
4 be workshop opportunities on proposed changes
5 being considered. Please be sure to sign up for
6 the Waste Tire Rulemaking Listserv to be included
7 in all up-to-date information regarding this
8 proposal. Instructions to sign up for the
9 listserv can be found on the Notice of Proposed
10 Rulemaking cover letter.

11 So our objectives that we focused on while
12 preparing the Proposed Regulations, we're going
13 to be talking about those, and many of these
14 proposed changes are in response to public
15 requests for increased enforcement and
16 accountability. Starting pretty much March 19,
17 2012 at a Tire Enforcement Workshop, we got a lot
18 of comments and input from that workshop that
19 have been incorporated into these Regulations.

20 As part of the increase in the export of
21 tires to Asia, there's been an increase in the
22 number of Waste tire businesses and haulers
23 operating without the appropriate permits or
24 registration, and without following hauler and
25 facility laws; the Proposed Waste Tire

1 Regulations Revisions are to deal with the export
2 issue and ensure consistent enforcement.

3 Even though the market has and will
4 continue to fluctuate, the Department goal is
5 that the Waste tire laws and regulations are
6 enforced uniformly across the state.

7 The Waste Tire Storage and Disposal
8 Standards, the big change in this section, is to
9 incorporate the 2010 California Fire Code. The
10 proposed changes are necessary to improve clarity
11 and eliminate regulatory duplication by just
12 referring to the 2010 California Code Sections.
13 The State Fire Marshal set new Standards for the
14 High Pile Combustible Material and the Tire
15 Rebuilding and Tire Storage in 2010.

16 The applicable sections of the 2010
17 California Fire Code are proposed to be
18 incorporated into our Statement of Standards to
19 replace the old 1989 Standards for Storage of
20 Rubber Tires and the 1993 California Fire Code.

21 By law, the Department is required to
22 incorporate the Fire Code Standards into our
23 Waste Tire Facility Permits.

24 For Tire Direct Product, we're basically
25 clarifying the statutory definition and we're

1 trying to balance the need to stockpile Tire
2 Director Products for large projects against the
3 need to enforce the Tire Storage Laws where large
4 tire piles exist. The Department needs to be
5 able to enforce our storage laws when dealing
6 with those that are trying to circumvent our
7 Waste Tire Storage laws.

8 For Waste Tire Facility permitting, we are
9 eliminating the requirement for a permitted Waste
10 tire facility to apply for a new permit every
11 five years. This allows for the permit review
12 and renewal if existing permit reflects current
13 and proposed facility operations. The change
14 will save staff time and resources for both the
15 State and the stakeholders.

16 In 18420, the applicability clause, the
17 new language will not change existing
18 requirements for permitted solid waste
19 facilities. The PRC 42808 threshold of 150 tires
20 per day average on an annual basis is
21 incorporated in this section.

22 We also have clarified the solid waste
23 facility that is unpermitted, or operates under a
24 notification regulatory tier, is not excluded
25 from the Waste Tire facility permitting

1 requirements, and that if they store, stockpile,
2 accumulate, or discard 500 or more Waste tires,
3 they shall comply with the Waste Tire Facility
4 Permitting Requirements.

5 With regards to the Waste Tire Collection
6 Location, this is a new facility type, however,
7 there is a current definition for collection that
8 is being removed; the facility definition that is
9 currently in law only defines a process, but was
10 being used to justify a collection location
11 facility. So the Proposed Waste Tire Regulation
12 Revision will expand on the existing language in
13 this new section.

14 There has also been language added to
15 address the closure of a Waste Tire Collection
16 location. As long as the collection location
17 operates in compliance with this new section,
18 they are excluded from the Waste Tire Facility
19 Permitting Requirements. These facility types
20 are excluded from the Waste Tire Facility
21 permitting under current law.

22 This notification process is being
23 proposed to get a better understanding of all the
24 excluded facilities in California. The proposed
25 notification process will notify the Department

1 of these facilities that are in our purview in
2 order for the Department to confirm that they are
3 operating within the parameters that actually
4 allow them to remain excluded and from needing
5 the Waste Tire Facility Permit. This new
6 requirement will require a facility to self-
7 certify that it is excluded from the Waste Tire
8 Facility Permitting Requirements by describing
9 its facilities operations and by stating that
10 they comply with all local government
11 requirements.

12 These exempt facilities are currently
13 exempt from requiring a Waste Tire Facility
14 Permit. The objective here is to add clarifying
15 text that reflects current statute and regulation
16 for Beneficial Reuse language that currently
17 exists in 17346, Waste Tire Monofill Regulations.
18 Since these Regulations were difficult for people
19 to locate, the Proposed Waste Tire Regulations
20 Revisions expands the current Beneficial Reuse
21 Regulations and relocates them to the new section
22 of 18431.3. This new section also includes
23 requirements when closing or dismantling a
24 beneficial reuse project.

25 The cement kiln, its application

1 requirements are clearly stated in the statute
2 and we are incorporating them into our
3 Regulations.

4 Record-Keeping Requirements: this would be
5 either manifest forms or log entries. A log
6 entry would include the method of receipt of
7 tires, method of removal of tires, the number of
8 tires received or removed, and the person that
9 you employ to remove or deliver Waste tires.
10 This information is necessary to capture Waste
11 tire movement that is not reflected on the CTLs
12 that are submitted to the Department.

13 The Initial Statement of Reasons states
14 this proposed section is necessary to capture
15 data about tire flow through Waste Tire
16 facilities that store less than 500 Waste tires
17 at any one time, but contribute to the overall
18 waste stream in California. All permitted Waste
19 Tire Facility Permits have language requiring
20 quarterly reports, such as this, be submitted to
21 the Department.

22 Due to the nature of the Port Terminal
23 being a nontraditional end-use facility, there's
24 no way to leave CTLs for delivery of waste and
25 used tires, and there's no way for an inspector

1 to get onsite to access the CTLs for review in
2 the field. So therefore, this Proposed
3 Regulation is to address that situation mainly
4 because it has greatly increased over the past
5 couple of years the activity of delivering tires
6 to the Port.

7 Basically what we're doing is cleaning up
8 the Waste Tire Facility Penalty Tables, as well
9 as eliminating the requirement that a Cleanup and
10 Abatement Order be violated prior to us being
11 able to implement any type of penalty against a
12 Waste Tire facility. But the Cleanup and
13 Abatement Order is still an option that will be
14 used to achieve compliance, so even though we're
15 eliminating the need to violate for us to issue a
16 penalty, we will still be using the CAO, the
17 Cleanup and Abatement Order.

18 So for facility definitions, we have added
19 three and deleted one. The three that we added
20 are Indoor and Indoor(s), and this is to be
21 consistent with the California Fire Code; Exempt
22 or Excluded; and the Waste Tire Facility. The
23 deleted, as I mentioned earlier, is the
24 collection that we're deleting and actually
25 relocating in its own Regulation.

1 Hauler Definitions: we're adding three
2 different definitions, we're deleting two, and
3 amending 26. We added the Collection Location,
4 Port Terminal, and Waste or Used Tire Generator,
5 Waste Tire Generator, or Generator.

6 In addition to these key objectives, we
7 also amended the California Integrated Waste
8 Management Board and the term "Board." Any
9 reference to those has been amended to be
10 "Department." That is in conformity with the PRC
11 Section 40400 that created the Department of
12 Resources Recovery and Recycling. And we've
13 corrected spelling, we have punctuation that's
14 been corrected, grammar is corrected, and other
15 typographical errors have been corrected.

16 So the next phase of this hearing is for
17 you to give us your oral comments. I do have one
18 speaker slip. I don't know, do we have any other
19 speaker slips that have been turned in?

20 Okay, when I call your name, if you could
21 come to the podium to give your oral comments,
22 and if you have anything written, we'd like to
23 keep that, as well. So Bryce Perkins.

24 MR. PERKINS: Thank you. My name is Bryce
25 Perkins. I'm an owner, a co-owner of a business

1 by the name of Tuff Boy Sales in Lathrop,
2 California. We are a vehicle gear manufacturer
3 and we specialize in managing a lease fleet of
4 trailers on behalf of Tuff Boy Leasing. It's a
5 4,000 fleet set of trailers that serves
6 California Agricultural processing throughout the
7 state from border to border, and sea to the
8 Sierras.

9 We manage these trailers exclusively on
10 behalf of Tuff Boy Leasing and different trucking
11 companies, agricultural processing companies
12 throughout the state come and get those trailers
13 from us and utilize them during this time of
14 year. And I'm speaking on behalf of a lot of
15 people that are in this industry, many of them
16 still in the middle of agricultural harvesting
17 and probably unable to take the time to come here
18 today, but I spoke to a number of people that are
19 glad we are championing these points I'm bringing
20 to you today.

21 I want to characterize the trailers we
22 have within the agricultural community.
23 Typically, these are sets of trailers. There are
24 12 tires on each set of trailers, so there are a
25 lot of tires we're dealing with. We manage

1 nearly 15,000 tires at any one time within our
2 fleet and other large companies -- Gallo,
3 Panella, and then many other large freight
4 companies have the same kind of numbers in their
5 fleets and they're normally eight to 12 tire
6 configuration. The tires are both bias and of
7 radial construction, they're of various brands
8 and sizes, and they experience differing aging
9 characteristics based on the manufacturer.

10 We utilize internal documentation and
11 government regulated safety criteria to determine
12 when a tire's days are over. Industry standards
13 follow governmental guidelines in implementing a
14 230 seconds tread depth as criteria for retiring
15 a tire; Tuff Boy utilizes a 230 seconds tread
16 depth, along with other criteria in determining
17 when a tire's useful life is complete. Tires
18 utilized by Tuff Boy and others within this
19 industry are installed on various trailers during
20 their useful life. The selected types of
21 installations result in extending the useful life
22 of the tire, maximizing the tire's use as a
23 resource and minimizing its use for its afterlife
24 as a waste product.

25 The tire utilization within the fleet of

1 trailers managed by Tuff Boy is typical of the
2 industry. New tires are mounted and remain on
3 the same wheel for their whole useful life. The
4 tires may complete their useful life on the same
5 trailer or be located to other trailers while
6 they are out there in service.

7 Certain things will take the tire out
8 eventually -- tread wear, age, exposure to the
9 elements, maintenance considerations, brand
10 construction and performance, and damage or
11 misuse. As some of those tires reach the end of
12 their days, they are normally rotated off of
13 trailers. The Waste tires are dismounted and
14 thrown into the waste piled, eliminated, and sent
15 to waste facilities. The still useful tires are
16 still inventory. They become inventory, they are
17 re-categorized, they are classified by grades,
18 and reintroduced into different trailers along
19 with like tires to further their life.

20 Unfortunately -- and paradoxically --
21 these tires mounted on wheels, responsibly
22 inventoried, awaiting installation for another
23 application, are considered to be Waste tires
24 under current Proposed CalRecycle Regulations,
25 under both the current and the new proposals.

1 CalRecycle's regulations define a wheel
2 mounted, maintenance-ready, responsibly
3 inventoried, and vector immune used tire as a
4 Waste tire. This definition creates needless
5 burdensome rules to Tuff Boy and others in our
6 industry that encourages poor resource
7 utilization, forces responsible companies into
8 costly material handling and storage decisions,
9 expensive and needless administration, wasteful
10 compromises as businesses decide between
11 responsible cost-effective tire uses and demands
12 of regulation and threat of penalties. It
13 compels Tuff Boy and other similarly situated
14 companies into maintaining paperwork, provide
15 special training to employees, accept additional
16 handling and exposure when moving used
17 maintenance-ready road mounted tires to and from
18 job sites or terminals.

19 The heavy-duty transportation industry
20 navigates through many regulatory-based safety
21 rules regarding the suitability of tires for use
22 on the public roads. Overriding the demands to
23 comply with CalRecycle Regulations, the industry
24 lives with the hard reality of market-based and
25 cost controlled driven issues that demand the

1 best use of tire resources.

2 The market dictates that Tuff Boy and
3 other similarly situated companies already
4 contain self-regulating mandates associated with
5 tire management. CalRecycle's Regulations
6 characterize maintenance-ready, wheel-mounted and
7 responsibly inventoried tires as waste. This
8 definition lacks understanding of the heavy duty
9 industry's ongoing used and abused tires. It
10 adds burdensome management and unnecessary cost
11 to businesses affected by this definition.

12 The application of this definition within
13 the heavy-duty and trucking industry is void of
14 any benefit to the management of resources your
15 Department is commissioned to uphold.

16 In addition to the work that CalRecycle
17 has already done in amending and modifying the
18 rules of Title 14 -- and we appreciate what
19 they've done so far in what I've read -- Tuff Boy
20 and others within the industry call upon
21 CalRecycle to consider addressing and modifying
22 the definition and application of a wheel mounted
23 and maintenance ready, properly inventoried and
24 used tire to be handled outside of the Solid
25 Waste Handling and Disposal Regulations. The

1 redefining of a wheel mounted, maintenance ready,
2 properly inventoried tire as a useable tire would
3 liberate the heavy duty industry from the costly
4 burdens of excessive handling, needless storing,
5 meaningless documentation, customized
6 transporting, and specialized employee training
7 required to handle and follow a useable resource
8 through a chain of commerce that is already
9 market disciplined.

10 Tuff Boy and other users of expensive
11 heavy duty tires already have market demands and
12 cost considerations, not to mention other
13 regulatory agencies guiding their hand when it
14 comes to the proper management of useable tires.
15 Furthermore, CalRecycle and their contract
16 agencies could be free from the unnecessary costs
17 associated with counting, recounting, inspecting,
18 and re-inspecting material that is years away
19 from entering the waste stream.

20 Tuff Boy believes it speaks on behalf of a
21 majority of the heavy-duty industry and the
22 agricultural industry in calling upon CalRecycle
23 to address and change the definition and
24 requirements associated with used tires under
25 Title 14. Thank you.

1 MS. STRYKER: Okay, any other speakers?

2 Okay. Thank you for your comments.

3 So after this hearing, the Department will
4 be holding other informal workshops. We will
5 have a second 45-day comment period and we do
6 encourage everyone, both here in the room, as
7 well as anyone listening, to go to this website
8 and sign up for the Waste Tire Rulemaking
9 Listserv because this listserv will be our
10 primary way of communicating workshops and other
11 opportunities for your participation.

12 The first set of workshops will be
13 scheduled for November, and I think the one in
14 Sacramento is currently scheduled for November
15 19th. So for any further Tire-Rulemaking
16 contacts, we have the email address, a fax, or
17 you can mail information to us, but as I
18 mentioned for this 45-day public comment period,
19 the time to receive written comments has passed.

20 So we've also got here on the Powerpoint
21 the staff contacts for this rulemaking project
22 and, again, I'd like to thank you all for your
23 comments.

24 And this concludes the first 45-day public
25 hearing on the Proposed Waste Tire Storage Permit

1 and Penalty Criteria Regulations.

2 (Whereupon, the hearing adjourned at 1:44 p.m.)

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